



State of Washington  
**DRAFT**  
REPORT OF EXAMINATION  
FOR WATER RIGHT APPLICATION

File NR S2-30683  
WR Doc ID 6799442

<b>PRIORITY DATE</b> May 12, 2016	<b>WATER RIGHT NUMBER</b> S2-30683
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<b>MAILING ADDRESS</b> LeRoy and Clarice Golden 10938 Yelm Hwy. SE Olympia, WA 98513	<b>SITE ADDRESS (IF DIFFERENT)</b> 5301 Rehklau Road SE Olympia, WA 98513
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**Quantity Authorized for Withdrawal or Diversion**

<b>WITHDRAWAL OR DIVERSION RATE</b> 0.02	<b>UNITS</b> CFS	<b>ANNUAL QUANTITY (AF/YR)</b> 0.34
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**Purpose**

PURPOSE	WITHDRAWAL OR DIVERSION RATE			ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON- ADDITIVE	UNITS	ADDITIVE	NON-ADDITIVE	
Domestic single	0.02	-	CFS	0.34	-	01/01 - 12/31

**REMARKS:** In-house use only

**Source Location**

<b>COUNTY</b> THURSTON	<b>WATERBODY</b> Lake Saint Clair	<b>TRIBUTARY TO</b> NISQUALLY	<b>WATER RESOURCE INVENTORY AREA</b> 11-NISQUALLY
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SOURCE FACILITY/DEVICE	PARCEL	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Lake Saint Clair	58350100200	18N	01E	31	NESE	47.00035	-122.71775278

Datum: NAD83/WGS84

**Place of Use (See Attached Map)**

<b>PARCELS (NOT LISTED FOR SERVICE AREAS)</b> 58350100200
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<b>LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE</b> Lot 2 in Block 1 - First Supplemental Plat to Lake St. Clair Summer Home Tracts, according to plat recorded in Vol. 11A of plats, pages 54, 55 & 56, parcel number 58350100200, Thurston County WA.
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**Proposed Works**

A screened 1 ½ inch surface-water intake pipe, with 200 feet of 1 ¼ inch water line, pumped by a 1 horsepower pump into an 81-gallon water tank.

REPORT OF EXAMINATION

### Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Started	June 1, 2018*	June 1, 2019

\*The water system will be considered complete following the installation of an approved measuring device per WAC 173-173.

### Measurement of Water Use

How often must water use be measured?	Annually
How often must water use data be reported to Ecology?	Upon Request by Ecology
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (gpm or cfs)

### Provisions

Use of water under this authorization is limited to in-house use only.

This water right must be relinquished when a public water supply becomes available to the authorized place of use.

### Measurements, Monitoring, Metering and Reporting

An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173.

WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Water use must be recorded annually and maintained by the water right holder for a minimum of five years and must be promptly submitted to Ecology upon request

### Department of Fish and Wildlife Requirement(s)

Pursuant to Chapter 77.55 Revised Code of Washington (RCW), a Hydraulic Project Approval permit must be obtained from the Washington State Department of Fish and Wildlife prior to beginning construction of the diversion. The intake must be screened in accordance with RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Washington Department of Fish and Wildlife Habitat Program at 600 Capitol Way N, Olympia, WA 98501-1091 or (360) 902-2534.  
<http://wdfw.wa.gov/licensing/hpa/>

### Proof of Appropriation

The water right holder shall file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and

the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the permit. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

### **Schedule and Inspections**

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

### **Findings of Facts**

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. S2-30683, subject to existing rights and the provisions specified above.

### **Your Right To Appeal**

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503  <b>Pollution Control Hearings Board</b> 1111 Israel RD SW Ste 301 Tumwater, WA 98501	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608  <b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

Signed at Olympia, Washington, this            day of            2016.

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Michael J. Gallagher, Section Manager

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

## INVESTIGATOR'S REPORT

Application for Water Right – GOLDEN

Water Right Control Number S2-30683

Jill Van Hulle, Pacific Groundwater Group for Department of Ecology

## BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S2-30683.

**Table 1 Summary of Requested Water Right**

<b>Applicant Name:</b>	LeRoy and Clarice Golden
<b>Date of Application:</b>	May 12, 2016
<b>Place of Use</b>	Lot 2 in Block 1 of First Supplemental Plat to Lake St. Clair Summer Home Tracts, according to plat recorded in Volume 11A of plats, pages 54, 55 and 56, parcel number 58350100200, Thurston County WA.

Source	Tributary To	WRIA	County
Lake Saint Clair	N/A	11-Nisqually	Thurston

Purpose	Diversion Rate	Annual Quantity	Period of Use
Single domestic supply	0.02 cubic feet per second	0.34 acre-feet per year	Year-round, as needed

## Legal Requirements for Approval of Appropriation of Water

RCW 90.03 authorizes the appropriation of public water for beneficial use and describes the process for obtaining water rights. Laws governing the surface water right permitting process are contained in RCW 90.03.250 through 90.03.340. In accordance with RCW 90.03.290, determinations must be made on the following four criteria in order for an application for water rights to be approved:

- Water must be available
- There must be no impairment of existing rights
- The water use must be beneficial
- The water use must not be detrimental to the public interest

### *Public Notice*

RCW 90.03.280 requires that notice of a water-right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in *The Olympian* of Thurston County on June 17<sup>th</sup> and 24<sup>th</sup>, 2016. No protests or letters of concern were received in response to this notice.

### *Consultation with the Department of Fish and Wildlife*

The Department must give notice to the Washington Department of Fish and Wildlife (WDFW) of applications to divert, withdraw, or store water. Ecology received comments from Steve Boessow with WDFW regarding diversions from Lake Saint Clair. Such comments are addressed in the *Public Interest Considerations* section of this Report of Examination.

### *State Environmental Policy Act (SEPA)*

A water-right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- (a) It is a surface-water-right application for more than 1 cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater-right application for more than 2,250 gallons per minute;
- (c) It is an application that, in combination with other water-right applications for the same project, collectively exceed the amounts above;
- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

### *Water Resources Statutes and Case Law*

Under the provisions of RCW 90.03.290 and 90.44.050, a water right shall be issued upon findings that water is available for appropriation for a beneficial use and that the appropriation, as proposed in the application, will not impair existing rights or be detrimental to the public welfare.

This application has been processed under Ecology's Cost Reimbursement Program, (RCW 43.21A.690 and RCW 90.03.265) as a Streamlined Cost Reimbursement Agreement (CRA) Project. Pacific Groundwater Group (PGG) prepared this report of examination under contract to the applicant, under the review of the Department of Ecology.

### *Priority Processing*

RCW 90.03.265(2) provides that, in pursuing a cost-reimbursement project, Ecology must determine the source of water from which the water is proposed to be diverted or withdrawn, including the boundaries of the area that delimit the source. Ecology must determine if any other water right

applications are pending from the same source<sup>1</sup>. Ecology must further determine that the allocation of water to one party will not diminish the water available to senior applicants applying for the same source.

Ecology's records indicate that there are two older pending applications for Lake St. Clair, S2-29776 filed on 7/1/1998, and S2-29592 filed on 2/6/1998. Both applications were filed for single-domestic supply, and like the Golden request, could be approved for single-domestic supply once Ecology is prepared to work on them. Conversely, the applicants could elect to have their applications processed as Cost Reimbursement projects. Neither of these pending applications will be adversely affected by the issuance of a permit to the applicant, and the Golden application can be processed as requested prior to other pending requests<sup>2</sup>.

## INVESTIGATION

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Evaluation of this application included, but was not limited to, research and/or review of the following:

- CDM (2002) *McAllister Wellfield Numerical Model, Final Report*. For City of Olympia Public Works Department, July.
- Drost, B.W.; D.M. Ely; and W.E. Lum, II. 1999. *Conceptual model and numerical simulation of the ground-water flow system in the unconsolidated sediments of Thurston County, Washington*. U.S. Geological Survey Water Resources Investigations Report 99-4165.
- Noble, J.B.; Wallace, E.F. 1996. *Geology and ground-water resources of Thurston County, Washington. Volume 2: Washington Division of Water Resources Water-Supply Bulletin 10, v. 2. 141 p., 5 plates*.
- Pacific Groundwater Group (1997) *Results of Well Installation and Testing, McAllister Springs Wellfield Testing Program*. September.
- Washington State Department of Ecology. December, 1986. Nisqually River Instream Resources Protection Program Including Proposed Administrative Rules WAC 173-511 (Water Resource Inventory Area 11).
- Washington State Department of Ecology records of surface and groundwater rights and claims in the vicinity of the subject production wells.  
<https://fortress.wa.gov/ecy/waterresources/map/WaterResourcesExplorer.aspx>

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<sup>1</sup> A water source may include surface water only, groundwater only, or surface and groundwater together, if Ecology finds they are hydraulically connected. Ecology shall consider technical information submitted by the applicant in making its determinations under this subsection.

<sup>2</sup> RCW 90.03.265(1)(b) provides that the requirement for an applicant to pay for the processing of senior applications does not apply in situations where the water allocated to one party will not diminish the water available to a senior applicant from the same source.

- Washington State Department of Ecology water well logs in the vicinity of the subject production well. <https://fortress.wa.gov/ecy/waterresources/map/WCLSWebMap/default.aspx>

### Location and Project Area Description

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The Golden property is located on Lake St. Clair, approximately 7 miles northwest of the city of Yelm in Thurston County. This application was filed for a single-family residence on a waterfront lot adjoining Lake St. Clair. The lot is currently undeveloped, and accessed from Rehklau Road SE.

Lake St. Clair is located in the Nisqually Basin, approximately four miles west from the main river channel. The shores of the 270-acre lake are lined with single-family homes and vacation cabins. The surrounding area is moderately developed with other houses and small farms.

### Potential Affects to Lake St. Clair and the Nisqually River Basin

Lake St. Clair is a glacial kettle lake with no outlet. The lake's water sources are a combination of surface and ground water. Eaton Creek discharges into the southern end of the largest lake basin. The groundwater system is hydraulically connected to McAllister Springs and McAllister Creek.

Lake St. Clair and this portion of Thurston County were extensively investigated during the development of the USGS Thurston County model report (Drost et al., 1999) and during subsequent updates in the *McAllister Baseline Monitoring Program* reports (CDM, 1999; 2000) that were prepared in conjunction with the Cities of Olympia's and Lacey's permitting efforts in the basin.

This portion of Thurston County is the product of the most recent (Vashon) glaciation and post-glacial events. Lake St. Clair lies in a compound glacial kettle within highly permeable glacial outwash. The lake is recharged by ground water seepage and Eaton Creek; there is no direct outlet. Instead the lake leaks into groundwater at its northern end. This leakage contributes to the discharge at McAllister Springs, located approximately about one mile to the north.

Groundwater recharges the numerous kettle lakes in the area. The largest is Lake St. Clair, which also is recharged by Eaton Creek. Previous studies associated with the City of Olympia's development of the McAllister Wellfield concluded that the lake bottom is in continuous hydraulic continuity with the aquifer (PGG, 1997).

The USGS (Drost et al., 1999) calculated that the annual seepage from Lake St. Clair to groundwater amounted to approximately 3.6 mgd (4,032 acre-feet). This figure low however, because the study was based on an analysis of precipitation, Eaton Creek inflow, and evaporation, and did not account for groundwater inflow. Later, as part of the *McAllister Baseline Monitoring Program*, CDM conducted extensive studies of groundwater seepage into the lake and developed a numerical model to estimate the proportion of lake recharge supplied by the seepage.



### Instream Flow Rule

Under the provisions of Chapter 173-511 WAC - Instream Resource Protection Program for the Nisqually River Basin, Water Resource Inventory Area 11, Lake St. Clair is closed year-round to new consumptive diversions. State law, however, provides an exemption from the closure for single domestic use, provided no alternative source is available.

As this appropriation is intended for single domestic supply, and is the sole source of potable water currently available, I recommend issuance of a permit, based on the recommendation of the Department of Fish and Wildlife, we recommend that this diversion be limited to in-house use only.

Additionally, at such a time as public water becomes available to the site, this right shall be relinquished and the applicant shall connect to a state approved water purveyor. The Pattison Water Company is the nearest purveyor, and may eventually extend lines down Rehklua Road.

### Potential Effects to Existing Water Rights

Ecology records indicate 58 water-right certificates and two permits have been issued for Lake St. Clair. These rights authorize a combined diversion rate of 1.94 cfs, and 42.68 acre-feet per year.

Additionally, over 50 Water-Right Claims have been filed for the lake, most of which are short-form claims and do not include a date of first use. It is unknown how many of these claims represent valid pre-code (1917) water uses, but public water is available to many of properties surrounding the lake, so there should be few homes dependent on direct surface-water diversion.

There have been no reported conflicts between surface water users on Lake St. Clair and water levels are generally high throughout the year.

### Water Rights Appurtenant to the Place of Use

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A review of water right records indicates that there are no ground or surface water rights appurtenant to the place of use of this application. The applicant has no other source of supply.

### Proposed Use and Basis of Water Demand

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This application requests the right to supply a single-family residence from the lake. An annual quantity of 0.34 acre-feet per year is sufficient for in-house single domestic supply. This amounts to an average use of approximately 300 gallons per day.

### Beneficial Use

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The use of water for domestic purposes is defined in statute as a beneficial use (RCW 90.54.020(1)).

## *Water Availability*

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For water to be available for appropriation, it must be both physically and legally available.

Lake St. Clair covers nearly 270 acres and is as deep as 110 feet in places. Lake levels in the lake are generally high due to a large inflow of groundwater. Because the lake has no outlet, it discharges to the McAllister Gravel unit at an estimated rate of 4,032 AFY (Drost et al., 1999).

## *Impairment Considerations*

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Impairment is an adverse impact on the physical availability of water for a beneficial use that is entitled to protection. A water-right application may not be approved if it would interrupt or interfere with the availability of water at the authorized point of diversion of a surface-water right. A surface-water right conditioned with in-stream flows may be impaired if a proposed use or change would cause the flow of the stream to fall to, or below, the instream flow more frequently, or for a longer duration, than was previously the case.

Under Chapter 173-511 Washington Administrative Code (WAC), minimum flows have been established for the Nisqually River, to which Lake Saint Clair is tributary. This rule is considered a water right pre-dating this application, and Nisqually River instream flows are thus subject to protection from impairment.

Under Chapter 173-511 WAC, Lake Saint Clair is closed to all consumptive appropriations; however single-domestic use is exempt from the minimum instream-flow provisions, if no alternative source is available.

## *Public Interest Considerations*

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### *Fisheries and In-stream Flow Considerations*

Steve Boessow of WDFW indicates that the department does not support additional diversions from Lake Saint Clair. However, WDFW acknowledges the exemption for single domestic use under Chapter 173-511 WAC and does not currently object to the issuance of water rights for in-house purposes only.

## **CONCLUSIONS**

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- Water is available from Lake St. Clair for in-house single domestic use.
- Domestic supply is a beneficial use.
- The proposed appropriation, as recommended, will not impair existing rights.
- The appropriation, as recommended, will not be detrimental to the public interest.

## RECOMMENDATIONS

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Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below, subject to the provisions listed on pages 2 and 3 of this report.

### Purpose of Use and Authorized Quantities

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The amount of water recommended is a maximum limit, and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

- 0.02 cfs
- 0.34 acre-feet per year
- Single-domestic supply, in-house use only
- Point of Diversion: NE¼, SE¼, Section 31, Township 18 North, Range 1 E.W.M.
- Place of Use: As described on page 2 of this Report of Examination

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*Jill Van Hulle, Pacific Groundwater Group*

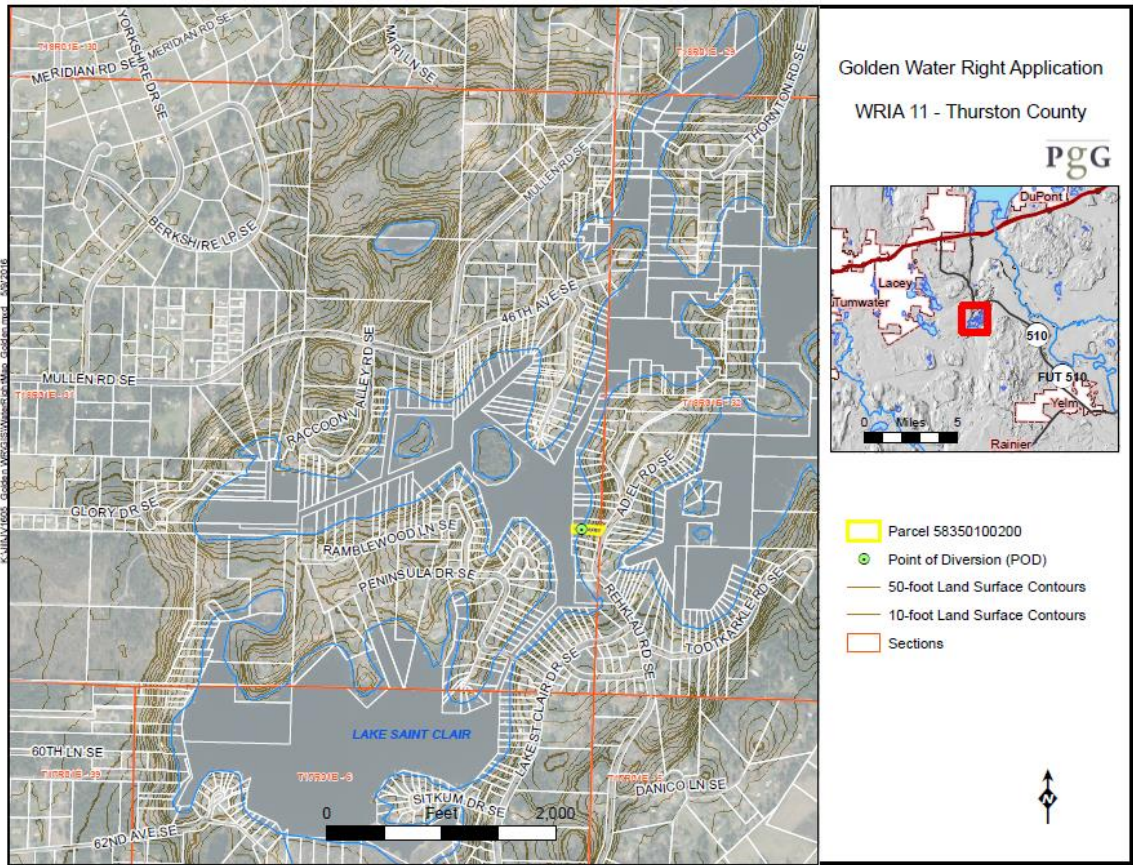
*Date*

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*Tammy Hall, Department of Ecology*

*Date*

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Attachment 1